REMARKS

In response to the above-identified Final Office Action, Applicants amend the Application and seek reconsideration in view of the following remarks. In this Response, Applicants amend claims 1, 5, 9, 12, and 18-21. Applicants do not cancel or add any new claims. Accordingly, claims 1-9 and 12-27 remain pending in the Application.

I. Claim Objections

The Patent Office objects to claim 12 for dependency reasons. In response thereto, Applicants amend claim 12 to depend from claim 9 instead of claim 20. Accordingly, Applicants respectfully request withdrawal of the objection to claim 12.

In addition, Applicants have replaced the term "node" with the term "level" in claim 18 as recommended by the Examiner. Accordingly, Applicants respectfully request withdrawal of the objection to claim 18.

II. Claims Rejected Under 35 U.S.C. § 112

Claim 9 stands rejected under 35 U.S.C. § 112, second paragraph, because there is insufficient antecedent basis for the terms "the first severity level" in line 9. Applicants have amended claim 9 to recite the elements of "a first severity level" in line 3. Therefore, "the first severity level" in line 9 includes proper antecedent basis. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 9.

Claims 19 and 20 stand rejected under 35 U.S.C. § 112, second paragraph, because there is insufficient antecedent basis for the terms "the applying code." Applicants have amended claims 19 and 20 to recite the elements of "the code to apply the second call admission policy" and submit that there is sufficient antecedent basis for such elements. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 19 and 20.

Claim 21 stands rejected under 35 U.S.C. § 112, second paragraph, because there is insufficient antecedent basis for the terms "the first severity level and the second severity level" in line 11. Applicants have amended claim 21 to recite the elements of "a first severity level" in line 4 and "a second severity level" in line 6. Therefore, "the first severity level and the second severity

level" in line 11 include proper antecedent basis. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 21.

III. Claims Rejected Under 35 U.S.C. § 103

A. *Sawatari* in view of *Calvignac*

Claims 1-2, 7-9, 15-18, and 21-27 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2002/0004841 filed by Sawatari ("*Sawatari*") in view of U.S. Patent No. 5,557,608 issued to Calvignac et al. ("*Calvignac*"). Applicants respectfully traverse the rejection.

To render a claim obvious, the cited references must teach or suggest each and every element of the rejected claim (*see* MPEP § 2143). Among other elements, amended claim 1 defines an apparatus comprising a second processor configured to "transmit the different severity level to the first processor, wherein the first processor is further configured to replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level" (emphasis added). Applicants submit that the combination of *Sawatari* and *Calvignac* fails to teach or suggest at least these elements of amended claim 1.

In making the rejection, the Patent Office alleges that *Sawatari* discloses a processor "configured to update the one of the plurality of admission policies based on the transmitted severity level" (Paper No./Mail Date 20080603, page 3, citing *Sawatari*, paragraph [0050]). Applicants disagree with the Patent Office's characterization of the disclosure in *Sawatari*.

Paragraph [0050] of *Sawatari* states, in its entirety:

> The time stamp storage section stores the time stamp that shows the time (day and hour) the real-time data was generated or updated.

Here, *Sawatari* discloses a section of memory containing information related to when real-time data was created or updated.

By contrast, claim 1 recites a processor configured replace an admission policy with a different admission policy when a different severity level for the network path is calculated. That is, the processor is configured to calculate the severity level and change the admission policy of the network path as the severity level of the network path changes. As such, Applicants submit that *Sawatari*'s disclosure of a section of memory containing information related to when real-time data

was created or updated is clearly different from a processor configured to "replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level" as recited in claim 1. Therefore, *Sawatari* fails to disclose each and every element of amended claim 1. The Patent Office relies on the disclosure in *Calvignac* to cure the defects of *Sawatari*; however, Applicants submit that *Calvignac* fails to cure such defects.

In making the rejection, the Patent Office cites *Calvignac* as disclosing "a plurality of call admission policies associated with one of a plurality of severity levels within its network" (Paper No./Mail Date 20080603, page 3). The Patent Office does not cite *Calvignac* as teaching or suggesting a processor configured to "replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level" as recited in claim 1. Moreover, in reviewing *Calvignac* Applicants are unable to discern any sections of *Calvignac* teaching or suggesting such elements. In fact, Applicants submit that *Calvignac* fails to disclose a system or device utilizing a plurality of admission policies, let alone a system or device that changes the admission policy based on changes in the severity levels of a network path.

Applicants submit that *Calvignac* discloses a device/system that only operates a single service policy. That is, the single service policy is chosen for the device/system at inception from amongst different service policies, but that once the service policy is selected, no other service policies are utilized. Specifically, *Calvignac* states that a "scheduler implements a policy to forward these packets to the output truck," wherein "depending on the trunk speed, the scheduling policy is either preemptive **or** nonpreemptive" (Col. 3, lines 45-46 and 59-60, respectively). Here, the trunk speed permanently determines the scheduling policy. That is, the scheduling policy is not based on the severity level of the network path, but rather on the trunk speed, which scheduling policy cannot change since the trunk speed does not change. Therefore, *Calvignac* only teaches a device/system that utilizes a single scheduling policy. As such, *Calvignac* fails to cure the defects of *Sawatari*.

The failure of the combination of *Sawatari* and *Calvignac* to teach or suggest each and every element of claim 1 is fatal to the obviousness rejection. Therefore, claim 1 is not obvious over *Sawatari* in view of *Calvignac*. Accordingly, Applicants respectfully request withdrawal of the rejection of independent claim 1.

Claims 2 and 7-8 depend from claim 1 and include all of the elements thereof. Therefore, Applicants submit that claims 2 and 7-8 are not obvious over *Sawatari* in view of *Calvignac* at least

for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2 and 7-8.

Regarding the rejection of independent claims 9, 17, and 21, Applicants submit that claims 9, 17, and 21 recite the elements of "replacing the first call admission policy with a second call admission policy if the first severity level and the second severity level are different severity levels," "replace the first call admission policy with a second call admission policy if the previous severity level and the current severity level are different severity levels," and "replacing the first call admission policy with a second call admission policy if the first severity level and the second severity level are different severity levels," respectively, similar to the elements of a processor "configured to replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level," as recited in claim 1. Therefore, Applicants submit that claims 9, 17, and 21 are not obvious over *Sawatari* in view of *Calvignac* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 9, 17, and 21.

Claims 15-16 and 27 depend from claim 9, claim 18 depends from claim 17, and claims 22-26 depend from claim 21 and include all of the elements of their respective independent claims. Therefore, Applicants submit that claims 15-16, 18, and 22-27 are not obvious over *Sawatari* in view of *Calvignac* at least for the same reasons as claims 9, 17, and 21, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 15-16, 18, and 22-27.

B. *Sawatari* in view of *Calvignac* and *Khan*

Claims 3-4, 12, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Sawatari* in view of *Calvignac* and U.S. Patent No. 6,400,954 issued to Khan et al. ("*Khan*"). Applicants respectfully traverse the rejection.

To render a claim obvious, the cited references must teach or suggest each and every element of the rejected claim (*see* MPEP § 2143). Claims 3-4, 12, and 19-20 depend from claims 1, 9, and 17, respectively, and include all of the elements thereof. In making the rejection, the Patent Office characterizes *Sawatari* and *Calvignac* similar to the characterization discussed above with respect to the rejection of claims 1, 9, and 17. Applicants have discussed above the failure of *Sawatari* and

Calvignac to teach or suggest at least the elements of a processor "configured to replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level," as recited in claim 1 and similarly recited in claims 9 and 17, and submit that such discussion is equally applicable to claims 3-4, 12, and 19-20 via their respective dependencies from claims 1, 9, and 17. Therefore, *Sawatari* and *Calvignac* fail to teach or suggest each and every element of claims 3-4, 12, and 19-20. The Patent Office relies on the disclosure in *Khan* to cure the defects of *Sawatari* and *Calvignac*; however, Applicants submit that *Khan* fails to cure such defects.

The Patent Office characterizes *Khan* as disclosing "different service classes in a network with different threshold levels" (Paper No./Mail Date 20080603, page 5, citation omitted). The Patent Office does not characterize *Khan* as disclosing the element of a processor "configured to replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level," as recited in claims 3-4 (via claim 1) and similarly recited in claim 12 (via claim 9) and claims 19-20 (via claim 17). Moreover, in reviewing *Khan*, Applicants are unable to discern any sections of *Khan* disclosing such elements. Therefore, *Khan* fails to cure the defects of *Sawatari* and *Calvignac*.

The failure of the combination of *Sawatari*, *Calvignac*, and *Khan* to teach or suggest each and every element of claims 3-4, 12, and 19-20 is fatal to the obviousness rejection. Therefore, claims 3-4, 12, and 19-20 are not obvious over *Sawatari* in view of *Calvignac* and *Khan*. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3-4, 12, and 19-20.

IV. Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that claims 5-6 and 13-14 would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims. However, in view of the discussion above, Applicants believe that claims 5-6 and 13-14 are in condition for allowance as they currently stand.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Patent Office believes that a telephone conference would be useful in moving the application forward to allowance, the Patent Office is encouraged to contact the undersigned at (480) 385-5060 or jgraff@ifllaw.com.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
INGRASSIA FISHER & LORENZ, P.C.

Dated: August 28, 2008

/JASON R. GRAFF/
Jason R. Graff
Reg. No. 54,134
(480) 385-5060